

110TH CONGRESS  
1ST SESSION

# H. R. 3896

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2007

Ms. DELAURO (for herself, Mr. WEINER, Mr. ISRAEL, Mr. HARE, and Mr. WELCH of Vermont) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Financial Services and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Infrastruc-  
5       ture Development Act of 2007”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The underground steam pipe explosion in  
4 New York, New York on July 18, 2007, and the  
5 Interstate Route 35W Mississippi River Bridge col-  
6 lapse in Minneapolis, Minnesota, on August 1, 2007,  
7 are both indicative of the major shortcomings in the  
8 national infrastructure.

9 (2) According to the American Society of Civil  
10 Engineers, the condition of our nation's roads,  
11 bridges, drinking water systems, and other public  
12 works are facing a shortfall of \$1,600,000,000,000  
13 investment to bring conditions to acceptable levels.

14 (3) According to the American Association of  
15 State Highway and Transportation Officials, high-  
16 way vehicle miles traveled in the United States,  
17 which reached 3,000,000,000,000 in 2006, is ex-  
18 pected to grow by 2.07 percent per year through  
19 2022 and may exceed 7,000,000,000,000 vehicle  
20 miles by 2055.

21 (4) According to the American Public Transit  
22 Association, From 1995 through 2005, public trans-  
23 portation ridership increased by 25 percent, a  
24 growth rate higher than the 11 percent increase in  
25 the United States population and higher than the 22

1       percent growth in use of the nation's highways over  
2       the same period.

3           (5) Airport capacity had increased only 1 per-  
4       cent from 1991 to 2001, yet air traffic had in-  
5       creased 35 percent during that same time period.

6           (6) As of 2006, 25.8 percent of the nation's  
7       bridges (154,101) were structurally deficient or  
8       functionally obsolete.

9           (7) According to recent estimates by the Envi-  
10      ronmental Protection Agency, as much as  
11      \$390,000,000,000 will be needed over the next 2  
12      decades to rebuild, repair, and upgrade the Nation's  
13      wastewater treatment plants.

14          (8) According to the Texas Transportation In-  
15      stitute, traffic congestion continues to worsen in  
16      American cities of all sizes, creating a  
17      \$78,000,000,000 annual drain on the United States  
18      economy in lost productivity and wasted fuel.

19          (9) Every billion dollars of Federal highway in-  
20      vestment generates 47,500 jobs; and, for every bil-  
21      lion dollars in transit investment, job generation is  
22      virtually the same as for highway investment.

23          (10) 11,300,000 million Americans—one in  
24      11—are employed in transportation occupations.

1           (11) As expressed in Executive Order No.  
2           12893 of January 26, 1994, which sets out guiding  
3           principles for Federal infrastructure investments, a  
4           well functioning infrastructure is vital to sustained  
5           economic growth, to the quality of life of our com-  
6           munities, and to the protection of our environment  
7           and natural resources.

8           (12) Although grant programs of the Federal  
9           Government must continue to play a central role in  
10          financing the infrastructure needs of the Nation,  
11          current and foreseeable demands on existing Fed-  
12          eral, State, and local funding for infrastructure ex-  
13          pansion and replacement exceed the resources to  
14          support these programs by margins wide enough to  
15          prompt serious concerns about the Nation's ability  
16          to sustain long-term economic development, produc-  
17          tivity, and international competitiveness.

18          (13) The private capital markets, including the  
19          trillions in capital held by institutional investors  
20          (such as pension funds), have a growing interest in  
21          public-private infrastructure investment opportuni-  
22          ties that can produce competitive risk-adjusted rates  
23          of return.

24   **SEC. 3. PURPOSES.**

25          The purposes of this Act are as follows:

1           (1) To establish the National Infrastructure  
2       Development Corporation for the purpose of making  
3       new sources of financing available for the develop-  
4       ment of infrastructure facilities, and to facilitate the  
5       use and issuance of public benefit bonds.

6           (2) To establish a subsidiary of the Corpora-  
7       tion, the National Infrastructure Insurance Corpora-  
8       tion, to issue insurance, reinsurance and related un-  
9       dertakings in respect of the issuance of obligations  
10      related to the development of infrastructure facili-  
11      ties.

12          (3) To establish a category of financial instru-  
13      ment to be known as “public benefit bonds” de-  
14      signed to help facilitate pension plan investment in  
15      the development of infrastructure facilities.

16 **SEC. 4. DEFINITIONS.**

17      The following definitions shall apply for purposes of  
18      this Act unless the context requires otherwise:

19          (1) CORPORATION.—The term “Corporation”  
20      means the National Infrastructure Development  
21      Corporation established under section 5(a).

22          (2) DEVELOPMENT.—The terms “development”  
23      and “develop” mean, with respect to an infrastruc-  
24      ture facility, any—

1 (A) preconstruction planning, feasibility re-  
2 view, permitting and design work and other  
3 preconstruction activities;

4 (B) construction, reconstruction, rehabili-  
5 tation, replacement, or expansion; and

6 (C) operation and maintenance.

7 (3) ENTITY.—The term “entity” means an in-  
8 dividual, corporation, partnership, joint venture,  
9 trust or governmental entity or instrumentality.

10 (4) INFRASTRUCTURE FACILITY.—The term  
11 “infrastructure facility” means a road, highway,  
12 bridge, tunnel, airport, mass transportation vehicle  
13 or system, passenger or freight rail vehicle or sys-  
14 tem, intermodal transportation facility, waterway,  
15 commercial port, drinking or waste water treatment  
16 facility, solid waste disposal facility, pollution control  
17 system, hazardous waste facility, federally des-  
18 ignated national information highway facility, school,  
19 and any ancillary facility which forms a part of any  
20 such facility or is reasonably related to such facility,  
21 whether owned, leased or operated by a public entity  
22 or a private entity or by a combination of such enti-  
23 ties, and the financing or refinancing of the develop-  
24 ment of which is, or will be, supported in whole or

1 in part by user fees or other dedicated revenue  
2 sources.

3 (5) INSURANCE CORPORATION.—The term “In-  
4 surance Corporation” means the National Infra-  
5 structure Insurance Corporation established pursu-  
6 ant to section 5(b).

7 (6) NIC.—The term “NIC” means the Cor-  
8 poration and all subsidiaries of the Corporation.

9 (7) PENSION PLAN.—The term “pension plan”  
10 means a pension plan as defined in section 3(2) of  
11 the Employee Retirement Income Security Act of  
12 1974 (29 U.S.C. 1001 et seq.), including any public  
13 pension plan.

14 (8) PUBLIC BENEFIT BOND.—The term “public  
15 benefit bond” means a bond or other indebtedness  
16 meeting the requirements of section 72(x) of the In-  
17 ternal Revenue Code of 1986.

18 (9) PUBLIC-PRIVATE PARTNERSHIP.—The term  
19 “public-private partnership” means any entity—

20 (A) which is undertaking the development  
21 of all or part of any infrastructure facility—

22 (i) pursuant to requirements estab-  
23 lished in one or more contracts between  
24 such entity and a State or an instrumen-  
25 tality of a State; or

1 (ii) the activities of which with respect  
2 to such facility are subject to regulation by  
3 a State or any instrumentality of a State;  
4 and

5 (B) which owns, leases, or operates, or will  
6 own, lease, or operate, such infrastructure facil-  
7 ity in whole or in part, and at least one of the  
8 participants in such entity is a nongovern-  
9 mental entity.

10 (10) REVOLVING FUND.—The term “revolving  
11 fund” means a fund or program established by a  
12 State or a political subdivision or instrumentality of  
13 a State, the principal activity of which is to make  
14 loans, commitments, or other financial accommoda-  
15 tion available for the development of one or more  
16 categories of infrastructure facilities.

17 (11) SECRETARY.—The term “Secretary”  
18 means the Secretary of the Treasury or the designee  
19 of the Secretary.

20 (12) STATE.—The term “State” includes the  
21 District of Columbia, Puerto Rico, Guam, American  
22 Samoa, the Virgin Islands, the Commonwealth of  
23 Northern Mariana Islands, and any other territory  
24 of the United States.



1           (13) TRANSITION DATE.—The term “transition  
2       date” means the date on which the voting common  
3       stock of the Corporation owned by the Secretary is  
4       fully repurchased or converted in accordance with  
5       section 13 and the transition of the Corporation to  
6       a government-sponsored enterprise in accordance  
7       with such section is completed.

8   **SEC. 5. ESTABLISHMENT OF NIC.**

9       (a) ESTABLISHMENT OF NATIONAL INFRASTRUC-  
10      TURE DEVELOPMENT CORPORATION.—The National In-  
11      frastructure Development Corporation is established as a  
12      wholly owned Government corporation subject to chapter  
13      91 of title 31, United States Code (commonly known as  
14      the “Government Corporation Control Act”), except as  
15      otherwise provided in this Act.

16      (b) ESTABLISHMENT OF NATIONAL INFRASTRUC-  
17      TURE INSURANCE CORPORATION.—The National Infra-  
18      structure Insurance Corporation is hereby established as  
19      a subsidiary of the Corporation and as a wholly owned  
20      Government corporation subject to chapter 91 of title 31,  
21      United States Code, except as otherwise provided in this  
22      Act.

23      (c) SELF-SUPPORTING ENTITIES.—The Corporation  
24      and the Insurance Corporation shall each conduct their  
25      respective businesses as self-supporting entities.

1 **SEC. 6. CORPORATION'S POWERS AND LIMITATIONS.**

2 (a) GENERAL POWERS.—In order to carry out the  
3 purposes of the Corporation as set forth in this Act, the  
4 Corporation shall have the following powers:

5 (1) To make senior and subordinated loans and  
6 purchase senior and subordinated debt securities  
7 (both taxable and tax exempt) and equity securities,  
8 and enter into a binding commitment to make any  
9 such loan or purchase any such security, on such  
10 terms as the Corporation may determine, in the Cor-  
11 poration's discretion, to be appropriate, the proceeds  
12 of which are to be used to finance or refinance the  
13 development of one or more infrastructure facilities,  
14 and subject to the provisions of subsection (b)(8),  
15 provide preconstruction phase assistance in accord-  
16 ance with section 8(f).

17 (2) To issue and sell debt securities and voting  
18 and nonvoting equity securities of the Corporation  
19 on such terms as the board of directors of the Cor-  
20 poration may determine, subject to the provisions of  
21 paragraphs (2), (3), and (4) of subsection (b), to be  
22 appropriate and to pay such dividends on any out-  
23 standing stock as the board of directors shall deter-  
24 mine from time to time.

1           (3) To make the determinations with respect to  
2       public benefit bonds pursuant to section 72(x) of the  
3       Internal Revenue Code of 1986.

4           (4) To make agreements and contracts with any  
5       entity in furtherance of the business of the Corpora-  
6       tion.

7           (5) To make use of the services, facilities, and  
8       property of any Federal agency or instrumentality,  
9       with the approval of such agency or instrumentality  
10      and on a reimbursable basis, in carrying out the  
11      purposes of this Act.

12          (6) To acquire, lease, pledge, exchange, and dis-  
13      pose of real and personal property and otherwise ex-  
14      ercise all the usual incidents of ownership of prop-  
15      erty to the extent the exercise of such powers are ap-  
16      propriate to and consistent with the purposes of the  
17      Corporation.

18          (7) To sue and be sued in the Corporation's  
19      corporate capacity in any court of competent juris-  
20      diction, except that no attachment, injunction, or  
21      similar process, mesne or final, may be issued  
22      against the property of the Corporation or against  
23      the Corporation with respect to such property.

24          (8) To indemnify the directors and officers of  
25      the Corporation for liabilities arising out of the ac-

1 tions of the directors and officers in such capacity,  
2 in accordance with, and subject to the limitations  
3 contained in, the bylaws of the Corporation.

4 (9) To exercise all other lawful powers which  
5 are necessary or appropriate to carry out, and are  
6 consistent with, the purposes of the Corporation, in-  
7 cluding the powers conferred upon a corporation by  
8 the District of Columbia Business Corporation Act  
9 (sec. 29–101.01 et seq., D.C. Official Code).

10 (b) LIMITATIONS ON THE CORPORATION.—

11 (1) ACTIONS CONSISTENT WITH SELF-SUP-  
12 PORTING ENTITY STATUS.—The Corporation shall  
13 conduct its business in a manner consistent with the  
14 requirement of section 5(c).

15 (2) CONDITION ON DEBT ISSUANCE.—The Cor-  
16 poration shall not issue any debt security under sub-  
17 section (a)(2) unless, at the time of the issuance  
18 thereof, such security is rated by a nationally recog-  
19 nized statistical rating organization at one of the 3  
20 highest ratings of such organization.

21 (3) LIMITATION AND CONDITION ON ISSUANCE  
22 OF DEBT AND NONVOTING EQUITY SECURITIES.—

23 (A) IN GENERAL.—Before the transition  
24 date, the Corporation shall not issue any debt  
25 security or nonvoting equity security under sub-

1 section (a)(2) without the prior consent of the  
2 Secretary.

3 (B) APPROVAL OF SECRETARY FOR DEBT  
4 SECURITY AFTER TRANSITION DATE.—On and  
5 after the transition date, the Corporation shall  
6 not issue any debt security under subsection  
7 (a)(2) without the prior consent of the Sec-  
8 retary.

9 (4) CONDITION ON VOTING EQUITY  
10 ISSUANCE.—Before the transition date, the Corpora-  
11 tion shall not issue any voting security to any entity  
12 other than the Secretary, and, on and after the tran-  
13 sition date, the issuance of any such security shall  
14 be subject to the provisions of section 13.

15 (5) SALE OF VOTING SECURITIES OF THE IN-  
16 SURANCE CORPORATION.—Before the transition  
17 date, voting securities of the Insurance Corporation  
18 purchased by the Corporation may not be sold or  
19 otherwise transferred by the Corporation.

20 (6) INVESTMENTS CONSISTENT WITH PURPOSES  
21 OF CORPORATION.—In order to achieve the Corpora-  
22 tion's purpose of effectively leveraging limited Fed-  
23 eral resources with other public and private sources  
24 of capital, the Corporation shall seek to maintain a

1 significant proportion of the Corporation's infra-  
2 structure investments in—

3 (A) subordinated securities; and

4 (B) securities issued with respect to infra-  
5 structure facilities developed by public-private  
6 partnerships.

7 (7) COORDINATION WITH STATE AND LOCAL  
8 REGULATORY AUTHORITY.—The provision of finan-  
9 cial assistance by the Corporation pursuant to this  
10 Act shall not be construed as—

11 (A) limiting the right of any State or local  
12 authority to approve or regulate rates of return  
13 on private equity invested in a project; or

14 (B) otherwise superseding any State law or  
15 regulation applicable to a project.

16 (8) LIMITATION ON PRECONSTRUCTION ASSIST-  
17 ANCE.—The Corporation shall provide assistance in  
18 connection with the development of any infrastruc-  
19 ture facility during the facility's preconstruction  
20 phase only in accordance with section 8(f).

21 **SEC. 7. INSURANCE CORPORATION'S POWERS AND LIMITA-**  
22 **TIONS.**

23 (a) GENERAL POWERS.—In order to carry out the  
24 purposes of the Insurance Corporation as set forth in this

1 Act, the Insurance Corporation shall have the following  
2 powers:

3           (1) To insure and reinsure bonds, debentures,  
4           notes, debt instruments, loans, and any interest in  
5           any such obligation or loan, the proceeds of which  
6           are to be used to finance or refinance the develop-  
7           ment of 1 or more infrastructure facilities.

8           (2) To insure leases of personal, real, or mixed  
9           property with respect to infrastructure facilities.

10          (3) To issue letters of credit and undertake  
11          such obligations and commitments as the Insurance  
12          Corporation deems necessary to carry out the pur-  
13          poses described in paragraphs (1) and (2).

14          (4) To issue and sell voting and nonvoting eq-  
15          uity securities on such terms as the board of direc-  
16          tors of the Insurance Corporation may determine,  
17          subject to the provisions of paragraphs (5) and (6)  
18          of subsection (b), to be appropriate and to pay divi-  
19          dends on any outstanding stock as the board of di-  
20          rectors of the Insurance Corporation shall determine  
21          from time to time.

22          (5) To make agreements and contracts with any  
23          entity in furtherance of the business of the Insur-  
24          ance Corporation.

1           (6) To make use of the services, facilities, and  
2           property of any Federal agency or instrumentality,  
3           with the approval of such agency or instrumentality  
4           and on a reimbursable basis, in carrying out the  
5           purposes of this Act.

6           (7) To acquire, lease, pledge, exchange, and dis-  
7           pose of real and personal property and otherwise ex-  
8           ercise all the usual incidents of ownership of prop-  
9           erty to the extent the exercise of such powers are ap-  
10          propriate to and consistent with the purposes of the  
11          Insurance Corporation.

12          (8) To sue and be sued in the Insurance Cor-  
13          poration's corporate capacity in any court of com-  
14          petent jurisdiction, except that no attachment, in-  
15          junction, or similar process, mesne or final, may be  
16          issued against the property of the Insurance Cor-  
17          poration or against the Insurance Corporation with  
18          respect to such property.

19          (9) To indemnify the directors and officers of  
20          the Insurance Corporation for liabilities arising out  
21          of the actions of the directors and officers in such  
22          capacity, in accordance with, and subject to the limi-  
23          tations contained in, the bylaws of the Insurance  
24          Corporation.



1           (10) To exercise all other lawful powers which  
2           are necessary or appropriate to carry out, and are  
3           consistent with, the purposes of the Insurance Cor-  
4           poration, including the powers conferred upon a cor-  
5           poration by the District of Columbia Business Cor-  
6           poration Act (sec. 29–101.01 et seq., D.C. Official  
7           Code).

8           (b) LIMITATIONS ON THE INSURANCE CORPORA-  
9           TION.—

10           (1) ACTIONS CONSISTENT WITH SELF-SUP-  
11           PORTING ENTITY STATUS.—The Insurance Corpora-  
12           tion shall conduct its business in a manner con-  
13           sistent with the requirement of section 5(c).

14           (2) INSURANCE CORPORATION RATING RE-  
15           QUIREMENT.—The Insurance Corporation shall not  
16           issue any primary insurance or letter of credit with  
17           respect to one or more infrastructure facilities un-  
18           less, at the time of such issuance, the Insurance  
19           Corporation’s claims-paying ability is then rated by  
20           a nationally recognized statistical rating organiza-  
21           tion at the highest rating of such organization.

22           (3) LIMITATION ON REINSURANCE.—The Insur-  
23           ance Corporation may write reinsurance in respect  
24           of all or a portion of a primary insurance policy with  
25           respect to one or more infrastructure facilities issued

1 by a bond insurer if the claims-paying ability of such  
2 insurer is rated, at the time of issuance of such rein-  
3 surance, by a nationally recognized statistical rating  
4 organization at the highest rating of such organiza-  
5 tion.

6 (4) LIMITATION ON INSURANCE AND OTHER AC-  
7 TIVITIES.—The Insurance Corporation may issue  
8 primary insurance or a letter of credit with respect  
9 to one or more infrastructure facilities, except that  
10 not less than 75 percent of the principal amount of  
11 all obligations so insured or subject of a letter of  
12 credit shall be obligations which are, or based on a  
13 published or indicative rating would be, without such  
14 insurance or letter of credit, rated by a nationally  
15 recognized statistical rating organization in the  
16 fourth or fifth rating categories of such organization  
17 (BBB and BB; Baa and Ba, or their equivalents).

18 (5) PRIOR CONSENT OF SECRETARY.—Before  
19 the transition date, the Insurance Corporation shall  
20 not issue any nonvoting equity security under sub-  
21 section (a)(4) without the prior consent of the Sec-  
22 retary.

23 (6) CONDITION ON VOTING EQUITY  
24 ISSUANCE.—Before the transition date, the Insur-

1       ance Corporation shall not issue any voting security  
2       to any entity other than the Corporation.

3               (7) COORDINATION WITH STATE AND LOCAL  
4       REGULATORY AUTHORITY.—The provision of finan-  
5       cial assistance by the Insurance Corporation pursu-  
6       ant to this Act shall not be construed as—

7                       (A) limiting the right of any State or local  
8                       authority to approve or regulate rates of return  
9                       on private equity invested in a project; or

10                      (B) otherwise superseding any State law or  
11                      regulation applicable to a project.

12   **SEC. 8. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM THE**  
13                               **CORPORATION AND THE INSURANCE COR-**  
14                               **PORATION.**

15       (a) GENERAL.—No financial assistance shall be avail-  
16       able under this Act from the Corporation or the Insurance  
17       Corporation unless the applicant for such assistance has  
18       demonstrated to the satisfaction of the Corporation or the  
19       Insurance Corporation, as the case may be, that the  
20       project for which such assistance is being sought meets—

21                      (1) the requirements of this Act; and

22                      (2) any criteria established in accordance with  
23       this Act by the board of directors of the Corporation  
24       or the Insurance Corporation, as the case may be.

25       (b) ESTABLISHMENT OF PROJECT CRITERIA.—

1           (1) IN GENERAL.—Consistent with the require-  
2           ments of subsections (c) and (d), the boards of di-  
3           rectors of the Corporation and the Insurance Cor-  
4           poration shall each establish—

5                   (A) criteria for determining eligibility for  
6                   financial assistance under this Act;

7                   (B) disclosure and application procedures  
8                   to be followed by States, revolving funds, and  
9                   other entities to nominate projects for assist-  
10                  ance under this Act; and

11                  (C) such other criteria as the board of di-  
12                  rectors of the Corporation or the Insurance  
13                  Corporation may consider to be appropriate for  
14                  purposes of carrying out this Act.

15           (2) FACTORS TO BE TAKEN INTO ACCOUNT.—  
16           The criteria established pursuant to paragraph  
17           (1)(A) shall provide for the consideration of the fol-  
18           lowing factors in considering eligibility for financial  
19           assistance under this Act:

20                   (A) The extent to which provision of assist-  
21                   ance by the Corporation or the Insurance Cor-  
22                   poration will further the objectives for infra-  
23                   structure investments established in Executive  
24                   Order No. 12893 of January 26, 1994, includ-

1 ing the stated objective of providing opportuni-  
2 ties for “innovative public-private initiatives”.

3 (B) The means by which development of  
4 the infrastructure facility under consideration is  
5 being financed, including—

6 (i) the terms and conditions and fi-  
7 nancial structure of the proposed financ-  
8 ing;

9 (ii) the financial assumptions and pro-  
10 jections on which the project is based; and

11 (iii) based on consideration of clauses  
12 (i) and (ii), whether the infrastructure fa-  
13 cility will have the capacity to be self-sup-  
14 porting.

15 (C) The likelihood that the provision of as-  
16 sistance by the Corporation or the Insurance  
17 Corporation will cause such development to pro-  
18 ceed more promptly and with lower costs for fi-  
19 nancing to the public and private entities en-  
20 gaged in developing such infrastructure facility  
21 than would be the case without such assistance.

22 (D) The extent to which the provision of  
23 assistance by the Corporation or the Insurance  
24 Corporation maximizes the level of private in-  
25 vestment in such infrastructure facility.

1           (3) LIMITATION ON CONDITIONS.—The Cor-  
2           poration and the Insurance Corporation shall not  
3           condition the approval of financial assistance for the  
4           development of any infrastructure facility on a re-  
5           quirement that a pension plan of a State or political  
6           subdivision of a State make an investment in such  
7           facility.

8           (c) SUBMISSION OF PROJECT PROPOSALS.—

9           (1) ACCEPTANCE OF PROPOSALS.—The Cor-  
10          poration and the Insurance Corporation shall accept,  
11          for consideration, project proposals relating to the  
12          development of infrastructure facilities submitted by  
13          a State, a revolving fund, or another entity, subject  
14          to subsection (d), which meet the requirements of  
15          subsection (b).

16          (2) LIST OF PROJECTS UNDER CONSIDERATION  
17          FOR ASSISTANCE.—Project proposals accepted pur-  
18          suant to paragraph (1) and approved in principle  
19          shall be placed on a list of projects being considered  
20          for financial assistance under this Act.

21          (3) ELIGIBILITY FOR PRECONSTRUCTION AS-  
22          SISTANCE.—Projects on the list established pursuant  
23          to paragraph (2) shall be eligible to apply for  
24          preconstruction assistance in accordance with sub-  
25          section (f).

1           (4)     SUBSEQUENT     APPROVALS.—Notwith-  
 2     standing the receipt of any preconstruction assist-  
 3     ance for any project, no additional financial assist-  
 4     ance under this Act for such project may be pro-  
 5     vided without the specific approval by the Corpora-  
 6     tion or the Insurance Corporation, as the case may  
 7     be, for such additional assistance.

8           (5) FEES.—A fee may be charged for the re-  
 9     view of any project proposal in such amount as may  
 10    be deemed appropriate by the Corporation or the In-  
 11    surance Corporation to cover the cost of such review.

12    (d) STATE ELIGIBILITY.—

13           (1) IN GENERAL.—After the end of the 3-year  
 14    period beginning on the date of the enactment of  
 15    this Act, no financial assistance may be provided by  
 16    the Corporation or the Insurance Corporation for  
 17    the development of any infrastructure facility pro-  
 18    posed for assistance by a State, or a revolving fund  
 19    in a State, unless such State has in place—

20           (A) an evaluation process which is certified  
 21    by the Secretary, in accordance with regulations  
 22    which the Secretary shall prescribe before the  
 23    end of the 6-month period beginning on such  
 24    date of enactment, as being designed to ascer-  
 25    tain the extent to which major work with re-

1           spect to infrastructure facilities within the  
2           State can be financed by relying on any revenue  
3           reasonably obtainable from such facilities and  
4           other dedicated revenue sources; and

5           (B) a program which is certified by the  
6           Secretary, in accordance with regulations which  
7           the Secretary shall prescribe before the end of  
8           such 6-month period, as being reasonably de-  
9           signed to promote the objective set forth in Ex-  
10          ecutive Order No. 12893 of January 26, 1994,  
11          of affording the opportunity for innovative pub-  
12          lic-private initiatives with respect to major  
13          work, consistent with the public interest.

14          (2) ACTIVITIES WITH NONSTATE ENTITIES.—

15       After the end of the 3-year period beginning on the  
16       date of the enactment of this Act, the Corporation  
17       and the Insurance Corporation each may continue to  
18       undertake activities with respect to projects within a  
19       State relating to the development of infrastructure  
20       facilities which have been submitted by entities other  
21       than such State or a revolving fund in such State,  
22       including municipalities, regional authorities, and  
23       private-public partnerships, if the infrastructure fa-  
24       cilities meet the criteria for assistance established  
25       pursuant to subsection (b), and the State or States



1 in which such facility or facilities are to be located  
2 have not met the conditions of subsection (d)(1).

3 (3) MAJOR WORK DEFINED.—For purposes of  
4 paragraph (1), the term “major work” means the  
5 construction of a new infrastructure facility, or the  
6 reconstruction, rehabilitation, replacement, or expansion  
7 of an existing infrastructure facility, involving  
8 the expenditure of more than \$10,000,000.

9 (e) INITIAL TARGETING OF READY-TO-GO  
10 PROJECTS.—During the 3-year period beginning on the  
11 date of the enactment of this Act, the Corporation and  
12 the Insurance Corporation shall each seek to provide assistance  
13 to projects involving the development of infrastructure  
14 facilities which—

15 (1) the Corporation or the Insurance Corporation,  
16 as the case may be, determines are ready to  
17 move forward promptly; and

18 (2) meet all other requirements of this Act.

19 (f) DEVELOPMENT RISK INSURANCE.—

20 (1) IN GENERAL.—Any project on the list established  
21 pursuant to subsection (c)(2) shall be eligible  
22 to apply to the Corporation for development risk  
23 insurance in accordance with this subsection to insure  
24 against the risk of loss that would result if a  
25 project does not proceed within a specified time

1 frame as the result of the failure to secure relevant  
2 permits or specified Federal, State, or local approv-  
3 als.

4 (2) TERMS AND SCOPE OF COVERAGE.—Devel-  
5 opment risk insurance provided under this sub-  
6 section shall—

7 (A) contain such limitations, deductibles,  
8 exclusions, and exceptions as the Corporation  
9 shall establish; and

10 (B) apply only to developmental costs in-  
11 curred after the date of the approval of the ap-  
12 plication for such insurance.

13 (3) MAXIMUM ON INSURANCE OF  
14 PRECONSTRUCTION RISK.—The Corporation shall  
15 not insure more than 50 percent of the  
16 preconstruction phase development risk of any  
17 project, as determined by the Corporation.

18 (4) ADDITIONAL CONDITIONS.—The Corpora-  
19 tion may impose such other conditions and require-  
20 ments in connection with any insurance provided  
21 under this subsection as the Corporation may deter-  
22 mine to be appropriate, including requirements for  
23 audits of costs and other matters.

24 (5) FEES FOR INSURANCE.—The Corporation  
25 may charge such fees and obtain such other com-

1       pensation for providing insurance coverage under  
2       this subsection as the Corporation, in the Corpora-  
3       tion's discretion, shall determine to be appropriate.

4           (6) MAXIMUM EXPOSURE OF CORPORATION.—

5       The total outstanding exposure of the Corporation  
6       with respect to insurance provided under this sub-  
7       section may not exceed the amount which is equal to  
8       5 percent of the sum of the capital, surplus, and re-  
9       tained earnings of the Corporation, as measured at  
10      the time any such insurance is provided.

11      (g) DISCRETION OF CORPORATION AND INSURANCE  
12      CORPORATION.—Consistent with other provisions of this  
13      Act, any determination of the Corporation or the Insur-  
14      ance Corporation to provide assistance to any project, and  
15      the manner in which such assistance is provided, including  
16      the terms, conditions, fees and charges in respect thereof,  
17      shall be at the sole discretion of the Corporation or the  
18      Insurance Corporation, as the case may be.

19      (h) INDEPENDENT INVESTMENT COMMITTEE.—Any  
20      final decision to provide or not provide assistance under  
21      this Act by the Corporation or the Insurance Corporation  
22      with respect to any specific proposal shall be made by an  
23      investment committee, of the respective corporation, which  
24      shall be comprised of senior officers of the Corporation  
25      and the Insurance Corporation, as the case may be, ap-

1 pointed to such committee by the respective board of direc-  
2 tors, which committees shall not have any nonofficer direc-  
3 tor members.

4 (i) STATE AND LOCAL PERMITS REQUIRED.—The  
5 provision of assistance by the Corporation or the Insur-  
6 ance Corporation in accordance with this section shall not  
7 be deemed to relieve any recipient of assistance or the re-  
8 lated project of any obligation to obtain required State and  
9 local permits and approvals.

10 (j) ANNUAL REPORT.—A State, revolving fund, or  
11 other entity receiving assistance from the Corporation or  
12 the Insurance Corporation shall make annual reports to  
13 the Corporation or the Insurance Corporation, as the case  
14 may be, on the use of any such assistance, compliance with  
15 the criteria set forth in this section, and a disclosure of  
16 all entities with a development, ownership, or operational  
17 interest in a project assisted or proposed to be assisted  
18 pursuant to this Act.

19 (k) COOPERATION.—While the Corporation and In-  
20 surance Corporation each has sole discretion, the Corpora-  
21 tion and Insurance Corporation shall cooperate with State,  
22 local, and regional officials.

1 **SEC. 9. CAPITALIZATION AND ORGANIZATION OF THE COR-**  
2 **PORATION AND THE INSURANCE CORPORA-**  
3 **TION.**

4 (a) CAPITALIZATION.—

5 (1) CAPITALIZATION OF THE CORPORATION.—

6 (A) VOTING COMMON STOCK.—Effective  
7 for any fiscal year only to such extent and in  
8 such amounts as are provided in advance in ap-  
9 propriation Acts, the Secretary shall subscribe  
10 for and purchase, in each of the 3 years fol-  
11 lowing the date of enactment of this Act, voting  
12 common stock of the Corporation having an ag-  
13 gregate purchase price in each year of  
14 \$3,000,000,000, except that no such purchase  
15 shall occur after the transition date.

16 (B) LIMITATION ON SALE OF SECURITIES  
17 BY SECRETARY.—Securities purchased by the  
18 Secretary may not be sold or otherwise trans-  
19 ferred by the Secretary unless such sale or  
20 transfer is effected pursuant to section 13 or is  
21 explicitly authorized by an Act of Congress.

22 (2) CAPITALIZATION OF THE INSURANCE COR-  
23 PORATION.—

24 (A) IN GENERAL.—The Corporation may  
25 subscribe for and purchase voting common  
26 stock of the Insurance Corporation in such

1 amounts and at such times as the board of di-  
2 rectors of the Corporation shall from time to  
3 time consider appropriate.

4 (B) LIMITATION ON INVESTMENT BY COR-  
5 PORATION.—Not more than 25 percent of the  
6 capital, surplus, and retained earnings of the  
7 Corporation may be invested by the Corporation  
8 in the Insurance Corporation without the con-  
9 sent of the Secretary, measured at the time of  
10 any such investment.

11 (3) REPURCHASE OF OUTSTANDING OBLIGA-  
12 TIONS.—The Corporation and the Insurance Cor-  
13 poration may purchase in the open market any of  
14 their respective outstanding obligations at any time  
15 and at any price.

16 (b) PLACE OF BUSINESS AND GOVERNING LAW.—

17 (1) CORPORATION.—

18 (A) PRINCIPAL OFFICE.—The Corporation  
19 shall maintain its principal office in the District  
20 of Columbia, and shall be deemed, for purposes  
21 of venue in civil actions, to be a resident of the  
22 District of Columbia.

23 (B) APPLICABILITY OF DISTRICT OF CO-  
24 LUMBIA BUSINESS CORPORATION ACT.—To the  
25 extent not inconsistent with this Act, the Cor-

poration shall be subject to the District of Columbia Business Corporation Act (sec. 29–101.01 et seq., D.C. Official Code).

(2) INSURANCE CORPORATION.—

(A) PLACE OF BUSINESS.—The Insurance Corporation shall maintain its principal office in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof.

(B) APPLICABILITY OF DISTRICT OF COLUMBIA BUSINESS CORPORATION ACT.—To the extent not inconsistent with this Act, the Insurance Corporation shall be subject to the District of Columbia Business Corporation Act.

(3) APPLICABILITY OF STATE INSURANCE LAWS.—Before the transition date, the Corporation and the Insurance Corporation shall not be subject to the provisions of the law of any State or political subdivision of any State regulating the ownership or conduct of an insurance or surety business in any jurisdiction.

(4) EXEMPTION FROM TAXATION.—

(A) ON AND BEFORE TRANSITION DATE.—On and before the transition date, the Corporation, the Insurance Corporation, and any other

1 subsidiary of the Corporation, including the  
2 franchise, capital, reserves, surplus, securities  
3 holdings, and income of the Corporation, the  
4 Insurance Corporation, or any such subsidiary  
5 shall be exempt from taxation now or hereafter  
6 imposed by the United States, any State, or  
7 any county, municipality, or local taxing au-  
8 thority.

9 (B) AFTER TRANSITION DATE.—After the  
10 transition date, the Corporation, the Insurance  
11 Corporation, and any other subsidiary of the  
12 Corporation, including the franchise, capital, re-  
13 serves, surplus, securities holdings, and income  
14 of the Corporation, the Insurance Corporation,  
15 or any such subsidiary shall be exempt from all  
16 taxation now or hereafter imposed by the  
17 United States, any State, or any county, mu-  
18 nicipality, or local taxing authority in any  
19 State, provided that the Corporation, the Insur-  
20 ance Corporation and any other subsidiary of  
21 the Corporation shall be subject to Federal in-  
22 come taxation.

23 **SEC. 10. MANAGEMENT OF THE CORPORATION.**

24 (a) BOARD OF DIRECTORS.—



1           (1) NUMBER AND APPOINTMENT.—Subject to  
2           the provisions of section 13, the Corporation shall  
3           have a board of directors consisting of 12 members,  
4           9 of whom shall be appointed by the President.

5           (2) REQUIRED EXPERTISE.—The President  
6           shall appoint individuals to the board of directors of  
7           the Corporation with a demonstrated experience and  
8           expertise in the general field of infrastructure  
9           project development, finance, or related disciplines.

10          (3) ADDITIONAL SELECTION CRITERIA.—The  
11          President shall ensure that, of the nonofficer direc-  
12          tors appointed to the board of directors, a minimum  
13          of 6 shall be selected from among representatives of  
14          the private sector, of which—

15                 (A) 2 shall be representatives of organized  
16                 labor; and

17                 (B) 2 shall be individuals involved in the  
18                 field of public-private infrastructure finance and  
19                 related disciplines.

20          (4) CONSULTATION WITH THE NATIONAL GOV-  
21          ERNORS' CONFERENCE.—The President shall select  
22          2 of the nonofficer directors to be appointed to the  
23          board of directors after consulting with and consid-  
24          ering the recommendations of the National Gov-  
25          ernors' Conference.

1           (5) APPOINTMENT OF OFFICERS TO THE  
2 BOARD.—A majority of the nonofficer members of  
3 the board shall appoint the president of the Corpora-  
4 tion who shall serve on the board of directors. The  
5 president of the Corporation shall select 2 executive  
6 officers to be appointed to the board, subject to con-  
7 firmation by a majority of the board.

8           (6) TERMS.—

9           (A) PRESIDENTIAL APPOINTEES.—Each  
10 director appointed by the President shall be ap-  
11 pointed for a term of 4 years, except as pro-  
12 vided in subparagraph (B).

13           (B) INITIAL PRESIDENTIAL AP-  
14 POINTEES.—As designated by the President, of  
15 the directors first appointed by the President—

16           (i)  $\frac{1}{3}$  shall be appointed for a term of  
17 2 years;

18           (ii)  $\frac{1}{3}$  shall be appointed for a term  
19 of 3 years; and

20           (iii)  $\frac{1}{3}$  shall be appointed for a term  
21 of 4 years.

22           (C) OFFICER DIRECTORS.—Officer direc-  
23 tors of the Corporation shall serve for a period  
24 of one year or until they cease to be an officer  
25 of the Corporation.

1 (D) INTERIM APPOINTMENTS.—Any direc-  
2 tor appointed to fill a vacancy occurring before  
3 the expiration of the term for which the direc-  
4 tor's predecessor was appointed shall be ap-  
5 pointed only for the remainder of that term.

6 (E) CONTINUATION OF SERVICE.—A direc-  
7 tor may serve after the expiration of that direc-  
8 tor's term until a successor has taken office.

9 (7) VACANCIES.—A vacancy in the board of di-  
10 rectors shall be filled in the manner in which the  
11 original appointment was made.

12 (8) REAPPOINTMENT.—

13 (A) PRESIDENTIAL APPOINTEES.—Mem-  
14 bers of the board of directors appointed by the  
15 President may be reappointed by the President,  
16 consistent with the requirements of this section.

17 (B) OFFICER DIRECTORS.—The president  
18 of the Corporation shall be reappointed to the  
19 board by the nonofficer directors for so long as  
20 such individual continues to serve as president  
21 of the Corporation. Officer directors of the  
22 board selected by the president of the Corpora-  
23 tion may be reappointed by the president of the  
24 Corporation, consistent with the requirements  
25 of this section.

1 (9) REMOVAL.—

2 (A) PRESIDENTIAL APPOINTEES.—A direc-  
3 tor appointed by the President shall be subject  
4 to removal only for cause.

5 (B) OFFICER DIRECTORS.—Officer direc-  
6 tors of the Corporation shall be subject to re-  
7 moval from the board in the discretion of a ma-  
8 jority of the board, except that the president of  
9 the Corporation shall continue to serve on the  
10 board for so long as he or she serves as presi-  
11 dent of the Corporation.

12 (10) QUORUM.—Seven directors shall constitute  
13 a quorum.

14 (11) CHAIRPERSON.—The chairperson of the  
15 board of directors shall be selected by a majority of  
16 the board from among the nonofficer directors of the  
17 board, and shall serve for a period of one year, or  
18 until a new chairperson is selected.

19 (12) STATUS AND COMPENSATION OF BOARD  
20 MEMBERS.—

21 (A) NONOFFICER DIRECTORS.—Members  
22 of the board of directors who are not officers of  
23 the Corporation shall serve on a part-time basis  
24 and shall receive a per diem, when engaged in  
25 the actual performance of Corporation business,

1 plus reasonable reimbursement for travel, sub-  
2 sistence and other necessary expenses incurred  
3 in the performance of their duties.

4 (B) OFFICER DIRECTORS.—Members of  
5 the board of directors who are officers of the  
6 Corporation shall not be entitled to receive any  
7 salary or other compensation for services as a  
8 director of the Corporation, but may receive  
9 reasonable reimbursement for travel, subsist-  
10 ence and other necessary expenses incurred in  
11 the performance of their duties as directors of  
12 the Corporation.

13 (13) CONFLICTS OF INTEREST.—

14 (A) IN GENERAL.—Nonofficer directors  
15 shall have no responsibility for, and shall not  
16 seek to influence, any decision of the inde-  
17 pendent investment committee established pur-  
18 suant to section 8(h).

19 (B) CONSULTATION.—Notwithstanding  
20 subparagraph (A), the investment committee  
21 may, in the committee's discretion and on the  
22 committee's own initiative, consult with the  
23 board of directors as the committee sees fit.

24 (C) LIMITATION ON CONSULTATION.—No  
25 nonofficer director of the Corporation who has,

1 or is affiliated with a person who has, an inter-  
2 est in any project under consideration for as-  
3 sistance under this Act shall participate in any  
4 consultation under subparagraph (B) with re-  
5 spect to such project.

6 (14) MEETINGS.—The board of directors shall  
7 meet at any time pursuant to the call of the chair-  
8 person or a majority of the directors and as provided  
9 by the bylaws of the Corporation, but not less than  
10 once each calendar quarter.

11 (15) DUTIES.—In addition to any duties estab-  
12 lished under this Act and the bylaws of the Corpora-  
13 tion, the board of directors shall determine the gen-  
14 eral policies which shall govern the operations of the  
15 Corporation in accordance with this Act.

16 (16) DELEGATION OF AUTHORITY.—The board  
17 of directors may delegate duties and powers of the  
18 board to such committees of the board as the board  
19 may determine to be appropriate.

20 (b) OFFICERS OF THE CORPORATION.—

21 (1) PRESIDENT OF THE CORPORATION.—The  
22 president of the Corporation shall be the chief execu-  
23 tive officer of the Corporation, with such executive  
24 functions, powers, and duties as may be prescribed  
25 by this Act, the bylaws, or the board of directors.

1           (2) APPOINTMENT OF OFFICERS.—The presi-  
2           dent of the Corporation shall, with the approval of  
3           a majority of the board, appoint qualified individuals  
4           to such executive officer positions as may be pro-  
5           vided for in the bylaws of the Corporation, and shall  
6           define their duties. The president may appoint, re-  
7           move, fix the compensation of, and define the duties  
8           of other officers as provided in the bylaws.

9           (3) COMPENSATION.—The compensation of the  
10          president and the executive officers of the Corpora-  
11          tion shall be determined by the board of directors of  
12          the Corporation, in the discretion of the board of di-  
13          rectors.

14          (4) CONFLICTS OF INTEREST.—Officers of the  
15          Corporation shall not participate in any review or  
16          decision affecting a project under consideration for  
17          assistance under this Act if such officer has, or is  
18          affiliated with a person who has, an interest in such  
19          project.

20          (5) REMOVAL.—Any executive officer of the  
21          Corporation may be removed in the discretion of a  
22          majority of the board of directors.

23 **SEC. 11. MANAGEMENT OF THE INSURANCE CORPORATION.**

24          (a) BOARD OF DIRECTORS.—

1           (1) NUMBER AND ELECTION.—Subject to the  
2           provisions of section 13, the Insurance Corporation  
3           shall have a board of directors consisting of 12  
4           members elected by the stockholders of the Insurance  
5           Corporation.

6           (2) INITIAL APPOINTMENT OF DIRECTORS.—  
7           The initial directors of the Insurance Corporation  
8           shall be appointed by the board of directors of the  
9           Corporation.

10          (3) REQUIRED EXPERTISE.—The board shall be  
11          comprised of individuals who have a demonstrated  
12          expertise and experience in the field of credit en-  
13          hancement or insurance and related disciplines, a  
14          minimum of 9 of whom shall be selected from among  
15          representatives of the private sector.

16          (4) TERMS.—

17                (A) IN GENERAL.—Each director shall be  
18                elected or appointed for a term of 2 years, ex-  
19                cept as provided in subparagraph (B).

20                (B) INTERIM APPOINTMENTS.—Any direc-  
21                tor elected or appointed to fill a vacancy occur-  
22                ring before the expiration of the term for which  
23                the director's predecessor was appointed shall  
24                be elected or appointed only for the remainder  
25                of that term.



1 (C) CONTINUATION OF SERVICE.—A direc-  
2 tor may serve after the expiration of that direc-  
3 tor's term until a successor has taken office.

4 (5) VACANCIES.—A vacancy in the board of di-  
5 rectors shall be filled in the manner in which the  
6 original appointment was made, except that the by-  
7 laws may provide for the appointment by the board  
8 of directors of a director to fill a vacancy occurring  
9 before the expiration of the term for which the direc-  
10 tor's predecessor was elected or appointed.

11 (6) QUORUM.—Seven directors shall constitute  
12 a quorum.

13 (7) CHAIRPERSON.—

14 (A) ELECTION.—The chairperson of the  
15 board of directors shall be elected by the board  
16 of directors from among the directors on the  
17 board.

18 (B) TERM.—The term of office of the  
19 chairperson shall be one year or until a new  
20 chairperson is elected.

21 (8) STATUS AND COMPENSATION OF BOARD  
22 MEMBERS.—Members of the board of directors shall  
23 serve on a part-time basis and shall receive a per  
24 diem, when engaged in the actual performance of In-  
25 surance Corporation business, plus reasonable reim-

1 bursement for travel, subsistence and other nec-  
2 essary expenses incurred in the performance of their  
3 duties.

4 (9) CONFLICTS OF INTEREST.—

5 (A) IN GENERAL.—Nonofficer directors  
6 shall have no responsibility for, and shall not  
7 seek to influence, any decision of the inde-  
8 pendent investment committee established pur-  
9 suant to section 8(h).

10 (B) CONSULTATION.—Notwithstanding  
11 subparagraph (A), the investment committee  
12 may, in the committee's discretion and on the  
13 committee's own initiative, consult with the  
14 board of directors as the committee sees fit.

15 (C) LIMITATION ON CONSULTATION.—No  
16 director who has, or is affiliated with any per-  
17 son who has, an interest in any project under  
18 consideration for assistance under this Act shall  
19 participate in any such consultation with re-  
20 spect to such project.

21 (10) MEETINGS.—The board of directors shall  
22 meet at any time pursuant to the call of the chair-  
23 person or a majority of the directors and as provided  
24 by the bylaws of the Insurance Corporation, but not  
25 less than once each calendar quarter.

1           (11) DUTIES.—In addition to any duties estab-  
2           lished under this Act or the bylaws of the Insurance  
3           Corporation, the board of directors shall determine  
4           the general policies which shall govern the oper-  
5           ations of the Insurance Corporation in accordance  
6           with this Act.

7           (12) DELEGATION OF AUTHORITY.—The board  
8           of directors may delegate duties and powers of the  
9           board to such committees of the board as the board  
10          may determine to be appropriate.

11         (b) OFFICERS OF THE INSURANCE CORPORATION.—

12           (1) PRESIDENT OF THE INSURANCE CORPORA-  
13          TION.—There shall be a position of president of the  
14          Insurance Corporation who shall be the chief execu-  
15          tive officer of the Insurance Corporation, with such  
16          executive functions, powers, and duties as may be  
17          prescribed by the bylaws or by the board of direc-  
18          tors.

19           (2) APPOINTMENT OF OFFICERS.—The chair-  
20          person of the board of directors of the Insurance  
21          Corporation shall, with the approval of a majority of  
22          the board, appoint a qualified individual to the posi-  
23          tion of president of the Insurance Corporation. The  
24          president of the Insurance Corporation shall, with  
25          the approval of a majority of the board, appoint

1 qualified individuals to such executive officer posi-  
2 tions as may be provided for in the bylaws of the In-  
3 surance Corporation, and shall define their duties.  
4 The president may appoint, remove, fix the com-  
5 pensation of, and define the duties of other officers  
6 as provided in the bylaws.

7 (3) COMPENSATION.—The compensation of the  
8 president and the executive officers of the Insurance  
9 Corporation shall be determined by the board of di-  
10 rectors of the Insurance Corporation, in the discre-  
11 tion of the board of directors.

12 (4) CONFLICTS OF INTEREST.—Officers of the  
13 Insurance Corporation shall not participate in any  
14 review or decision affecting a project under consider-  
15 ation for assistance under this Act if such officer  
16 has, or is affiliated with a person who has, an inter-  
17 est in such project.

18 (5) REMOVAL.—Any executive officer of the In-  
19 surance Corporation may be removed in the discre-  
20 tion of a majority of the board of directors.

21 **SEC. 12. BOARD OF DIRECTOR MEETINGS OPEN TO PUBLIC.**

22 (a) GENERAL.—All meetings of the full board of di-  
23 rectors held to conduct the business of the Corporation  
24 or the Insurance Corporation shall be open to the public,  
25 and shall be preceded by reasonable notice.

1       (b) CLOSED MEETINGS.—Pursuant to such rules as  
2 the Corporation and the Insurance Corporation may es-  
3 tablish through their bylaws, the respective board of direc-  
4 tors may close a meeting of the board if at the meeting  
5 there is likely to be disclosed information which could ad-  
6 versely affect or lead to speculation relating to an infra-  
7 structure project under consideration for assistance under  
8 this Act, or in financial or securities or commodities mar-  
9 kets or institutions, utilities, or real estate. The deter-  
10 mination to close any meeting of either board of directors  
11 shall be made in a meeting of such board, open to the  
12 public, and preceded by reasonable notice. The respective  
13 board of directors shall prepare minutes of any meeting  
14 which is closed to the public and make such minutes avail-  
15 able as soon as the considerations necessitating closing  
16 such meeting no longer apply.

17 **SEC. 13. TRANSITION TO GOVERNMENT-SPONSORED EN-**  
18 **TERPRISE.**

19       (a) GENERAL.—Within 5 years after the date of the  
20 enactment of this Act, the Corporation shall prepare a  
21 strategic plan for the transition of NIC to a government-  
22 sponsored enterprise (as defined in section 3(8) of the  
23 Congressional Budget and Impoundment Control Act of  
24 1974 (2 U.S.C. 622(8)) and for the sale or transfer to  
25 investors other than the Federal Government, as set forth

1 in subsection (b), of the voting securities of the Corpora-  
2 tion. The Corporation shall revise such transition plan as  
3 needed.

4 (b) PLAN; PENSION PLAN PARTICIPATION.—

5 (1) IN GENERAL.—The strategic plan shall in-  
6 clude consideration of alternative means for effecting  
7 such transition through a broad distribution to long-  
8 term investors, including by a public offering of  
9 stock or convertible stock or debt.

10 (2) PENSION PLAN PARTICIPATION.—The stra-  
11 tegic plan shall include provisions that specify that  
12 the initial purchasers of voting securities of the Cor-  
13 poration or of nonvoting securities which are con-  
14 vertible to such voting securities on the transition  
15 date (disregarding any underwriters of such securi-  
16 ties) shall be pension plans.

17 (c) MEANS OF TRANSFER.—

18 (1) IN GENERAL.—The strategic plan may call  
19 for a phased transfer of ownership or for complete  
20 transfer at a single point in time.

21 (2) RULES APPLICABLE IN THE CASE OF A  
22 PHASED TRANSITION.—If the plan calls for phased  
23 transfer of ownership—

24 (A) such transition shall be deemed to  
25 occur when 100 percent of the voting securities

1 of the Corporation have been transferred to or  
2 are held by investors other than the Federal  
3 Government, and the investment of the Federal  
4 Government in the Corporation has been repaid  
5 or converted as provided in subsection (h);

6 (B) before the transition date, all equity  
7 securities of the Corporation held by investors  
8 other than the Federal Government (or any eq-  
9 uity security into which any other security is  
10 convertible) shall be nonvoting securities; and

11 (C) on and after the transition date, non-  
12 voting equity securities of the Corporation held  
13 by investors other than the Federal Government  
14 (or into which other securities are convertible)  
15 may, in accordance with the terms of such secu-  
16 rities, be converted or become convertible into  
17 voting securities.

18 (d) REQUIREMENT OF PRESIDENTIAL APPROVAL.—  
19 The Corporation may not implement the transition plan  
20 without the approval of the President, and shall seek re-  
21 approval if the plan is materially altered.

22 (e) NOTIFICATION OF CONGRESS.—

23 (1) IN GENERAL.—The Corporation shall notify  
24 the Congress of—

1 (A) the Corporation's intent to implement  
2 the transition plan; and

3 (B) any material alteration of a transition  
4 plan previously submitted to the Congress.

5 (2) REPORT.—Within 30 days of any notifica-  
6 tion of the Congress under paragraph (1), the  
7 Comptroller General of the United States shall sub-  
8 mit a report to Congress evaluating the extent to  
9 which—

10 (A) the transition plan (as then modified)  
11 would result in ongoing obligations (other than  
12 contemplated by subsection (h)) or undue cost  
13 to the Federal Government; and

14 (B) the cash proceeds (or projected range  
15 thereof) to be provided to the Federal Govern-  
16 ment, or the securities proposed to be received  
17 in exchange for the investment of the Federal  
18 Government in the Corporation or portion  
19 thereof, represents the full recoupment of such  
20 investment (after taking into account any divi-  
21 dends paid to the Federal Government).

22 (f) CONGRESSIONAL REVIEW.—The Corporation may  
23 implement the plan not less than 60 days after notification  
24 of the Congress, if the approval of the President referred  
25 to in subsection (d) has been received.



1 (g) DEPOSIT OF PROCEEDS.—Any cash proceeds re-  
 2 ceivable by the Federal Government pursuant to this sec-  
 3 tion shall be deposited in the general fund of the Treasury.

4 (h) CONVERSION OF FEDERAL GOVERNMENT IN-  
 5 VESTMENT.—Upon the implementation of the transition  
 6 plan, the voting equity securities of the Corporation held  
 7 by the Federal Government or, in the case of a phased  
 8 transition, that portion of the voting equity securities  
 9 which are subject to such phase shall be repurchased by  
 10 the Corporation or converted to long-term subordinated  
 11 debt securities having a par amount not less than the  
 12 amounts appropriated pursuant to section 19 and subject  
 13 to such phase, or a combination thereof, as contemplated  
 14 by such plan.

15 (i) BOARD OF DIRECTORS.—

16 (1) CORPORATION.—

17 (A) INITIAL BOARD.—Before the end of  
 18 the 120-day period beginning on the transition  
 19 date, a special meeting of the stockholders of  
 20 the Corporation shall be held, at which all di-  
 21 rectors of the Corporation shall be elected to  
 22 serve a one-year term or until any such direc-  
 23 tor's successor has been elected.

24 (B) NOMINATION; SELECTION CRITERIA.—

25 The candidates for election to the board of di-

1           rectors under paragraph (1) shall be nominated  
2           by the existing board of directors and 4 of such  
3           candidates shall be nominated in accordance  
4           with the selection criteria set out in section  
5           10(a)(3).

6           (C) SUBSEQUENT BOARDS.—After the 1st  
7           election of a board of directors pursuant to sub-  
8           paragraph (A), the directors shall be elected  
9           and subject to removal by the stockholders of  
10          the Corporation, as provided in the District of  
11          Columbia Business Corporation Act, except that  
12          the nomination of candidates for each election  
13          of the board of directors shall continue to re-  
14          flect the requirements of section 10(a)(3).

15          (2) INSURANCE CORPORATION.—

16               (A) INITIAL BOARD.—Promptly following  
17               the special meeting of the stockholders of the  
18               Corporation pursuant to paragraph (1), a spe-  
19               cial meeting of the stockholders of the Insur-  
20               ance Corporation shall be held, at which all di-  
21               rectors or the Insurance Corporation shall be  
22               elected to serve a one-year term or until any  
23               such director's successor has been elected.

24               (B) SUBSEQUENT BOARDS.—After the first  
25               election of a board of directors pursuant to sub-

1 paragraph (A), the directors shall be elected  
2 and subject to removal by the stockholders of  
3 the Insurance Corporation, as provided in the  
4 District of Columbia Business Corporation Act  
5 (sec. 29–101.01 et seq., D.C. Official Code).

6 (j) TRANSMITTAL OF FINAL PLAN AFTER COMPLE-  
7 TION.—The Corporation shall transmit copies of the final  
8 strategic plan for transition to the President and the Con-  
9 gress upon completion of such transition.

10 **SEC. 14. STATUS AND APPLICABILITY OF CERTAIN FED-**  
11 **ERAL LAWS.**

12 (a) BEFORE THE TRANSITION DATE.—Before the  
13 transition date, the Corporation, the Insurance Corpora-  
14 tion, and any other subsidiary of the Corporation, shall—  
15 (1) not be agencies of the United States; and  
16 (2) comply with all Federal laws regulating the  
17 budgetary and auditing practices of a government  
18 corporation, except as otherwise provided in this Act.

19 (b) SUBSEQUENT TO THE TRANSITION DATE.—On  
20 and after the transition date, the Corporation, the Insur-  
21 ance Corporation, and any other subsidiary of the Cor-  
22 poration shall not be considered to be an agency, instru-  
23 mentality, or establishment of the United States Govern-  
24 ment or a government corporation or a government-con-

1 trolled corporation, for purposes of any Federal law, ex-  
2 cept as otherwise provided in this Act.

3 (c) AUTHORIZED INVESTMENTS AND SECURITY.—All  
4 obligations issued by the Corporation shall be authorized  
5 investments for any person created under the laws of the  
6 United States or any State to the same extent that the  
7 person may hold or invest in obligations issued by or guar-  
8 anteed as to principal or interest by the United States or  
9 any agency or instrumentality of the United States.

10 (d) EFFECT OF AND EXEMPTIONS FROM OTHER  
11 LAWS.—

12 (1) EXEMPT SECURITIES.—All equity and debt  
13 securities and other obligations issued by the Cor-  
14 poration or the Insurance Corporation pursuant to  
15 this Act shall be deemed to be exempt securities  
16 within the meaning of laws administered by the Se-  
17 curities and Exchange Commission to the same ex-  
18 tent as securities which are direct obligations of, or  
19 obligations fully guaranteed as to principal or inter-  
20 est by, the United States.

21 (2) OPEN MARKET OPERATIONS AND STATE  
22 TAX EXEMPT STATUS.—The obligations of the Cor-  
23 poration shall be deemed to be obligations of the  
24 United States for the purposes of the provision des-  
25 ignated as (b)(2) of the 2nd undesignated paragraph

1 of section 14 of the Federal Reserve Act and section  
2 3124 of title 31, United States Code.

3 (3) NO PRIORITY AS A FEDERAL CLAIM.—The  
4 priority established in favor of the United States by  
5 section 3713 of title 31, United States Code, shall  
6 not apply with respect to any indebtedness of the  
7 Corporation or the Insurance Corporation.

8 (e) FEDERAL RESERVE BANKS AS DEPOSITORIES,  
9 CUSTODIANS, AND FISCAL AGENTS.—The Federal reserve  
10 banks may act as depositories for, or custodians or fiscal  
11 agents of, the Corporation and the Insurance Corporation.

12 (f) ACCESS TO BOOK-ENTRY SYSTEM.—The Sec-  
13 retary may authorize the Corporation and the Insurance  
14 Corporation to use the book-entry system of the Federal  
15 reserve system.

16 **SEC. 15. COMPLIANCE WITH DAVIS-BACON ACT.**

17 NIC shall take such action as may be necessary to  
18 ensure that projects assisted in whole or in part under  
19 the provisions of this Act shall incorporate a provision re-  
20 quiring in any contract relating to any construction, recon-  
21 struction, rehabilitation, replacement, or expansion of  
22 such project, that not less than the wages prevailing in  
23 the locality, as predetermined by the Secretary of Labor  
24 pursuant to section 3142 of title 40, United States Code  
25 (commonly known as the “Davis-Bacon Act”), shall be

1 paid to all laborers and mechanics employed to perform  
2 such contracts.

3 **SEC. 16. OBLIGATIONS NOT FEDERALLY GUARANTEED;**  
4 **STATE LAWS.**

5 (a) STATUS OF SECURITIES.—

6 (1) NO FULL FAITH AND CREDIT OF THE  
7 U.S.—Obligations of the Corporation or the Insur-  
8 ance Corporation, and obligations insured by any  
9 such corporation shall not be obligations of, or guar-  
10 anteed as to principal or interest by, the United  
11 States or any agency of the United States and the  
12 obligations shall so plainly state.

13 (2) FINANCING NOT TREATED AS U.S. GUAR-  
14 ANTEE.—The provision of assistance of any kind or  
15 nature from NIC shall not be treated as a direct or  
16 indirect guarantee of any payment of principal or in-  
17 terest on any security by the United States for pur-  
18 poses of section 149(b) of the Internal Revenue  
19 Code of 1986 (26 U.S.C. 149(b)) or any other law.

20 (b) STATE LAWS.—The receipt by any entity of any  
21 assistance under this Act, directly or indirectly, and any  
22 financial assistance provided by any governmental entity  
23 in connection with such assistance under this Act shall be  
24 valid and lawful notwithstanding any State or local restric-

1 tions regarding extensions of credit or other benefits to  
2 private persons or entities, or other similar restrictions.

3 **SEC. 17. AUDITS; REPORTS TO THE PRESIDENT AND THE**  
4 **CONGRESS.**

5 (a) ACCOUNTING.—The books of account of NIC  
6 shall be maintained in accordance with generally accepted  
7 accounting principles and shall be subject to an annual  
8 audit by independent public accountants of nationally rec-  
9 ognized standing.

10 (b) REPORTS.—NIC shall submit to the President  
11 and the Congress, within 90 days after the end of each  
12 fiscal year, a complete and detailed report with respect  
13 to the preceding fiscal year, setting forth—

14 (1) a summary of NIC's operations, for such  
15 preceding fiscal year;

16 (2) NIC's financial statements and the opinion  
17 with respect thereto prepared by the independent  
18 public accountant reviewing such statements and a  
19 copy of any report made on an audit conducted  
20 under subsection (a) of this section;

21 (3) a schedule of NIC's obligations and capital  
22 securities outstanding at the end of such fiscal year,  
23 with a statement of the amounts issued and re-  
24 deemed or paid during such fiscal year; and

1           (4) the status of projects receiving funding or  
2           other assistance pursuant to this Act, including dis-  
3           closure of all entities with a development, ownership,  
4           or operational interest in such projects.

5           (c) BOOKS AND RECORDS.—

6           (1) IN GENERAL.—NIC shall maintain adequate  
7           books and records to support the financial trans-  
8           actions of the Corporation, the Insurance Corpora-  
9           tion, and subsidiaries of such corporations.

10          (2) AUDITS BY THE SECRETARY AND GAO.—  
11          The books and records of NIC shall be maintained  
12          in accordance with recommended accounting prac-  
13          tices and shall be open to inspection by the Sec-  
14          retary and the Comptroller General of the United  
15          States.

16 **SEC. 18. TAX TREATMENT OF DISTRIBUTIONS FROM QUALI-**  
17 **FIED RETIREMENT PLANS INVESTING IN**  
18 **PUBLIC BENEFIT BONDS.**

19          (a) IN GENERAL.—Section 72 of the Internal Rev-  
20          enue Code of 1986 (relating to annuities; certain proceeds  
21          of endowment and life insurance contracts) is amended by  
22          redesignating subsection (x) as subsection (y) and by in-  
23          serting after subsection (w) the following:



1       “(x) TREATMENT OF DISTRIBUTION FROM QUALI-  
2 FIED RETIREMENT PLANS INVESTING IN PUBLIC BEN-  
3 EFIT BONDS.—

4               “(1) IN GENERAL.—In the case of any qualified  
5 retirement plan which receives directly or indirectly  
6 any interest on any public benefit bond (including  
7 any payments in respect thereof made by a surety  
8 or guarantor) for purposes of applying this section  
9 to any distribution from such plan, the distributee’s  
10 investment in the contract shall be treated as includ-  
11 ing such distributee’s allocable share of such interest  
12 under the terms of the qualified retirement plan,  
13 and any such distribution shall be treated as a dis-  
14 tribution described in subsection (e)(2)(B) in which  
15 the distribution is allocable first to the investment in  
16 the contract attributable to such interest.

17               “(2) TREATMENT OF INSTALLMENTS.—In the  
18 case of a distribution to be made over more than one  
19 calendar year, the amount of public benefit bond in-  
20 terest to be taken into account with respect to a  
21 given calendar year shall be the aggregate amount of  
22 such interest allocable to the distributee as of the  
23 end of the prior calendar year. With respect to the  
24 final calendar year, the amount of public benefit  
25 bond interest to be taken into account shall include

1 the amount of such interest received by the plan  
2 during such year that is allocable to the plan partici-  
3 pant with respect to whom the distribution is made.

4 “(3) PUBLIC BENEFIT BOND.—For purposes of  
5 this subsection, the term ‘public benefit bond’ means  
6 any obligation issued after the date of the enactment  
7 of this subsection if—

8 “(A) 95 percent or more of the net pro-  
9 ceeds of such obligation are used in connection  
10 with the financing or refinancing of one or  
11 more infrastructure facilities,

12 “(B) such obligation has received a pub-  
13 lished rating, and

14 “(C) the development of such infrastruc-  
15 ture facilities have been or will be undertaken  
16 by a governmental entity or public-private part-  
17 nership,

18 as such terms are defined in section 4 of the Na-  
19 tional Infrastructure Development Act of 2007.

20 “(4) CERTIFICATION OF INFRASTRUCTURE FA-  
21 CILITIES.—An issuer of an obligation of which 95  
22 percent or more of the net proceeds are to be used  
23 in connection with the financing or refinancing of  
24 one or more facilities may apply to the National In-  
25 frastructure Development Corporation, in accordance

1 with such procedures as such corporation may estab-  
2 lish, for certification that any such facility is an in-  
3 frastructure facility (as defined in section 4 of the  
4 National Infrastructure Development Act of 2007).  
5 Certification by the Corporation shall create a pre-  
6 sumption of such status, but shall not be binding on  
7 the Secretary.

8 “(5) LEGEND REQUIRED.—No obligation shall  
9 be a public benefit bond for purposes of this sub-  
10 section unless it is designated as intended to be a  
11 public benefit bond on the date of issuance and  
12 bears a legend to such effect.

13 “(6) QUALIFIED RETIREMENT PLAN.—For pur-  
14 poses of this subsection, the term ‘qualified retire-  
15 ment plan’ means—

16 “(A) a qualified retirement plan (as de-  
17 fined in section 4974(c)), and

18 “(B) an eligible deferred compensation  
19 plan (as defined in section 457(b)).

20 “(7) TREATMENT OF DIVIDENDS FROM MUTUAL  
21 FUNDS.—

22 “(A) IN GENERAL.—For purposes of this  
23 subsection, in the case of any dividend (other  
24 than a dividend described in section 854(a)) re-  
25 ceived from a regulated investment company

1 which meets the requirements of section 852 for  
2 the taxable year in which it paid the dividend—

3 “(i) the entire amount of such divi-  
4 dend shall be treated as interest on a pub-  
5 lic benefit bond if the aggregate interest on  
6 such bonds received by such company dur-  
7 ing the taxable year equals or exceeds 75  
8 percent of its gross income, or

9 “(ii) if clause (i) does not apply, a  
10 portion of such dividend shall be treated as  
11 interest on a public benefit bond based on  
12 the portion of the company’s gross income  
13 which consists of such interest.

14 “(B) NOTICE TO SHAREHOLDERS.—The  
15 amount of any distribution by a regulated in-  
16 vestment company which may be taken into ac-  
17 count as interest on a public benefit bond for  
18 purposes of this section shall not exceed the  
19 amount so designated by the company in a writ-  
20 ten notice to its shareholders mailed not later  
21 than 45 days after the close of its taxable year.

22 “(C) GROSS INCOME.—For purposes of  
23 this section, the term ‘gross income’ does not  
24 include gain from the sale or other disposition  
25 of stock or securities.”.

1 (b) EFFECTIVE DATE.—The amendment made this  
2 section shall apply to distributions after the date of the  
3 enactment of this Act.

4 **SEC. 19. AUTHORIZATIONS.**

5 (a) APPROPRIATIONS AUTHORIZED FOR ESTABLISH-  
6 MENT.—There is authorized to be appropriated to the Sec-  
7 retary \$30,000,000 for the purpose of facilitating the  
8 NIC’s initial operations.

9 (b) APPROPRIATIONS AUTHORIZED FOR CONDUCT OF  
10 BUSINESS OF NIC.—There are authorized to be appro-  
11 priated to the Secretary \$3,000,000,000 for each of the  
12 fiscal years 2009 through 2012 to make the capital con-  
13 tributions in accordance with section 9(a)(1)(A) for the  
14 purpose of carrying out this Act.

15 (c) ESTABLISHMENT OF NIC ACCOUNT.—Before the  
16 transition date, the funds appropriated under subsection  
17 (b) shall be deposited in an account to be established in  
18 the Treasury of the United States to be known as the  
19 “National Infrastructure Development Corporation Ac-  
20 count”, which shall be available to the Corporation, with-  
21 out need for further appropriation and without fiscal year  
22 limitation, for carrying out its purposes, functions and  
23 powers, including the investment and reinvestment of  
24 these funds as permitted in this Act, and which shall not  
25 be subject to apportionment under subchapter II of chap-

1 ter 15 of title 31, United States Code. The Secretary of  
2 the Treasury, in consultation with the board of directors  
3 of the Corporation, shall invest amounts in the account  
4 in public debt securities with maturities suitable to the  
5 needs of the account and bearing interest at rates deter-  
6 mined by the Secretary, taking into consideration current  
7 market yields on outstanding marketable obligations of the  
8 United States of comparable maturities.

9 **SEC. 20. PROHIBITION ON ADDITIONAL FEDERAL ASSIST-**  
10 **ANCE.**

11 Except as otherwise specifically provided by sections  
12 13 and 19, NIC shall receive no appropriations, loans, or  
13 other financial assistance from the Federal Government.

14 **SEC. 21. LIMITATION ON EXERCISING OF POWERS.**

15 Neither the Corporation nor the Insurance Corpora-  
16 tion may exercise a power granted to it under this Act  
17 with respect to a project or activity involving a corporation  
18 (other than the Corporation and the Insurance Corpora-  
19 tion) unless the corporation is incorporated under the laws  
20 of any State.

